

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK TWAIN GADDIS,

Plaintiff,

v.

Case No. 2:18-cv-13763

District Judge Arthur J. Tarnow

Magistrate Judge Anthony P. Patti

CITY OF DETROIT,
STEPHEN KUE,
JUSTIN MARROQUIN,
WALLACE RICHARDS,
KHARY MASON, and
PATRICK LANE,

Defendants.

**ORDER GRANTING IN PART, DENYING IN PART, and DEEMING
RESOLVED IN PART DEFENDANTS' DECEMBER 19, 2019 MOTIONS
(ECF NO. 26)**

This is a civil rights case, which stems from the alleged events of June 21, 2017. Currently before the Court is Defendant's December 19, 2019 motion, which seeks to compel: (1) Plaintiff's attendance for an independent medical examination; (2) Plaintiff's execution of medical record authorizations; and, (3) Plaintiff's appearance for deposition. (ECF Nos. 26.) Defendants filed a statement of unresolved issues. (ECF No. 33.) Thereafter, Plaintiff filed a response, a counterstatement of resolved and unresolved issues, and, with the Court's permission, a supplemental brief. (ECF Nos. 35, 36, 37-1.)

Judge Tarnow referred this motion to me for hearing and determination, and, ultimately, a hearing was held on February 14, 2020, at which attorneys Allison L. Kriger, Julie H. Hurwitz and Gregory G. Paddison appeared. (ECF Nos. 27, 29, 30.) The Court entertained oral argument on the motion, after which the Court issued its ruling from the bench.

For the reasons stated on the record, all of which are incorporated by reference as though fully restated herein, Defendants' December 19, 2019 motion (ECF No. 26) is:

- **GRANTED IN PART & DENIED IN PART** to the extent it seeks Plaintiff's attendance at a medical examination (ECF No. 26, PageID.155-159). More specifically:
 - Defendant's request for a Fed. R. Civ. P. 35(a) order directing a urology examination is **DENIED WITHOUT PREJUDICE**.
 - Defendant's request for a Rule 35(a) order directing a psychology/psychiatry examination is **GRANTED**, and such exam shall be conducted only upon proper notice under Rule 35(a)(2)(B) and shall be no more than 4 hours in length.
 - Defendant's request for a Rule 35(a) order directing an orthopedic examination is **GRANTED**, and such exam shall be conducted only upon proper notice under Rule 35(a)(2)(B) and shall be no more than 3 hours in length.
 - Plaintiff's requests for permission to be accompanied by his attorney(s) or other representative and/or to unobtrusively record the examinations (*see* ECF No. 35, PageID.217-218) are **DENIED**.

- To the extent it would not be inconsistent with the above rulings and conditions, Plaintiff reserves the right to object to the psychology/psychiatry and/or orthopedic examination notices on the bases of “time, place, manner, conditions, and scope of the examination, as well as the person or persons who will perform it.” Fed. R. Civ. P. 35(a)(2)(B);
- **DEEMED RESOLVED** to the extent it seeks Plaintiff’s execution of medical record authorizations (ECF No. 26, PageID.159-160); and,
- **DEEMED RESOLVED** to the extent it seeks Plaintiff’s appearance for deposition (ECF No. 26, PageID.160-162).

IT IS SO ORDERED.

Dated: February 14, 2020

s/ *Anthony P. Patti*

Anthony P. Patti

U.S. MAGISTRATE JUDGE